
SENATE BILL No. 434

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-18.5-10.5; IC 36-8-19-8.

Synopsis: Fire protection territories. Allows a civil taxing unit to increase its property tax levy in the first year in which the civil taxing unit participates in a fire protection territory.

Effective: January 1, 2009 (retroactive).

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January 12, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 434

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.146-2008,
2 SECTION 177, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10.5. (a)
4 The ad valorem property tax levy limits imposed by section 3 of this
5 chapter do not apply to ad valorem property taxes imposed by a civil
6 taxing unit for fire protection services within a fire protection territory
7 under IC 36-8-19, if the civil taxing unit is a participating unit in a fire
8 protection territory established before August 1, 2001. For purposes of
9 computing the ad valorem property tax levy limits imposed on a civil
10 taxing unit by section 3 of this chapter on a civil taxing unit that is a
11 participating unit in a fire protection territory established before August
12 1, 2001, the civil taxing unit's ad valorem property tax levy for a
13 particular calendar year does not include that part of the levy imposed
14 under IC 36-8-19.
15 (b) This subsection applies to a participating unit in a fire protection
16 territory established under IC 36-8-19 after July 31, 2001. The ad
17 valorem property tax levy limits imposed by section 3 of this chapter

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do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19 for the three (3) calendar years in which the participating unit levies a tax to support the territory. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter for the three (3) calendar years for which the participating unit levies a tax to support the territory, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(c) This subsection applies to property taxes first due and payable after December 31, 2008. **Except as provided in subsection (d) and** notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

- (1) the assessed value growth quotient determined under section 2 of this chapter; minus
- (2) one (1).

(d) The limits specified in subsection (c) do not apply to a civil taxing unit in the first year in which the civil taxing unit becomes a participating unit in a fire protection territory established under IC 36-8-19. In the first year in which a civil taxing unit becomes a participating unit in a fire protection territory, the civil taxing unit shall submit its proposed budget, proposed ad valorem property tax levy, and proposed property tax rate for the fire protection territory to the local government tax control board. The local government tax control board shall review and make a recommendation to the department of local government finance on the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for that calendar year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for that calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory (including any expenses that, before the establishment of the fire protection territory, were funded through loans or emergency borrowing), plus a reasonable operating balance, not to exceed twenty percent (20%) of the

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1 **budgeted expenses.**

2 SECTION 2. IC 36-8-19-8, AS AMENDED BY P.L.128-2008,
 3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. (a) Upon the adoption
 5 of identical ordinances or resolutions, or both, by the participating units
 6 under section 6 of this chapter, the designated provider unit must
 7 establish a fire protection territory fund from which all expenses of
 8 operating and maintaining the fire protection services within the
 9 territory, including repairs, fees, salaries, depreciation on all
 10 depreciable assets, rents, supplies, contingencies, and all other
 11 expenses lawfully incurred within the territory shall be paid. The
 12 purposes described in this subsection are the sole purposes of the fund,
 13 and money in the fund may not be used for any other expenses. Except
 14 as allowed in subsections (d) and (e) and section 8.5 of this chapter, the
 15 provider unit is not authorized to transfer money out of the fund at any
 16 time.

17 (b) The fund consists of the following:

- 18 (1) All receipts from the tax imposed under this section.
 19 (2) Any money transferred to the fund by the provider unit as
 20 authorized under subsection (d).
 21 (3) Any receipts from a false alarm fee or service charge imposed
 22 by the participating units under IC 36-8-13-4.
 23 (4) Any money transferred to the fund by a participating unit
 24 under section 8.6 of this chapter.

25 (c) The provider unit, with the assistance of each of the other
 26 participating units, shall annually budget the necessary money to meet
 27 the expenses of operation and maintenance of the fire protection
 28 services within the territory, plus a reasonable operating balance, not
 29 to exceed twenty percent (20%) of the budgeted expenses. **Except as**
 30 **provided in IC 6-1.1-18.5-10.5**, after estimating expenses and receipts
 31 of money, the provider unit shall establish the tax levy required to fund
 32 the estimated budget. The amount budgeted under this subsection shall
 33 be considered a part of each of the participating unit's budget.

34 (d) If the amount levied in a particular year is insufficient to cover
 35 the costs incurred in providing fire protection services within the
 36 territory, the provider unit may transfer from available sources to the
 37 fire protection territory fund the money needed to cover those costs. In
 38 this case:

- 39 (1) the levy in the following year shall be increased by the amount
 40 required to be transferred; and
 41 (2) the provider unit is entitled to transfer the amount described
 42 in subdivision (1) from the fund as reimbursement to the provider

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(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is ~~not~~ subject to the tax levy limitations imposed ~~on civil taxing units under IC 6-1.1-18.5~~ for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001. **under IC 6-1.1-18.5-10.5.**

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory; the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and

(2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

**SECTION 3. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]
IC 36-8-19-8, as amended by this act, applies to property taxes first due and payable after December 31, 2008.**

SECTION 4. An emergency is declared for this act.

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